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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY R. KANE and JOHN I. MUNSON

Appeal 2009-007248
Application 10/067,875
Technology Center 2400

Before JOHN A. JEFFERY, LEE E. BARRETT, and THU A. DANG,
Administrative Patent Judges.

JEFFERY, *Administrative Patent Judge.*

DECISION ON APPEAL¹

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-21. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants invented a method and system for routing data. *See generally* Spec. 1. Claim 1 is reproduced below with the key disputed limitations emphasized:

1. A method for routing data by a server, comprising the steps of:

providing an application on the server;

providing a table of formats and protocols on the server, wherein the table is accessible by the application, wherein the table contains a plurality of formats and protocols;

receiving, on the server, data to be routed from a source to a destination, *the data having the destination and a transaction type that defines a character of the data included therein*;

retrieving, from the table, a format of the plurality of formats for transforming the data and a protocol of the plurality of protocols for communicating the data based on the destination, the transaction type and the source; and

the application transforming the data into the retrieved format, and routing the transformed data to the destination using the retrieved communication protocol, *wherein the application is adapted to transform the data which is received in one of a plurality of formats into the transformed data which is in one of a plurality of formats*.

The Examiner relies on the following as evidence of unpatentability:

Lakshman	US 6,078,564	June 20, 2000
Harris, Jr.	US 6,144,975	Nov. 7, 2000
Deng	US 6,243,394 B1	June 5, 2001

Olejar	US 2003/0037100 A1	Feb. 20, 2003 (filed July 17, 2001)
Endo	US 2004/0212841 A1	Oct. 28, 2004 (effectively filed Oct. 26, 1998)

THE REJECTIONS

1. The Examiner rejected claims 1, 3, 10, 12, 16, and 18 under 35 U.S.C. § 102(e) as anticipated by Endo. Ans. 3-5.²
2. The Examiner rejected claims 4, 7, 13, and 19 under 35 U.S.C. § 103(a) as unpatentable over Endo and Olejar. Ans. 5-7.
3. The Examiner rejected claims 2, 11, and 17 under 35 U.S.C. § 103(a) as unpatentable over Endo and Deng. Ans. 7-8.
4. The Examiner rejected claims 5, 14, and 20 under 35 U.S.C. § 103(a) as unpatentable over Endo and Lakshman. Ans. 8.
5. The Examiner rejected claims 6, 15, and 21 under 35 U.S.C. § 103(a) as unpatentable over Endo and Harris, Jr. Ans. 9.
6. The Examiner rejected claim 8 under 35 U.S.C. § 103(a) as unpatentable over Endo, Olejar, and Lakshman. Ans. 9.
7. The Examiner rejected claim 9 under 35 U.S.C. § 103(a) as unpatentable over Endo, Olejar, Lakshman, and Harris, Jr. Ans. 10.

CLAIM GROUPING

Appellants argue the following claim groupings separately: (1) claims 1, 3, 10, 12, 16, and 18; (2) claims 4, 7, 13, and 19; (3) claims 2, 11, and 17;

² Throughout this opinion, we refer to (1) the Appeal Brief filed May 19, 2008 and (2) the Examiner's Answer mailed August 5, 2008.

(4) claims 5, 14, and 20; (5) claims 6, 15, and 21; (6) claim 8; and (7) claim 9. *See* Br. 6-11. Accordingly, we select claims 1, 4, 2, 5, and 6 as representative of groups (1)-(5), respectively. *See* 37 C.F.R. § 41.37(c)(1)(vii).

THE ANTICIPATION REJECTION OVER ENDO

Regarding representative independent claim 1, the Examiner finds that Endo teaches all the limitations, including the information in the transmission method column of Endo's Figure 4 is the recited data having a transaction type that defines the data's character. Ans. 3, 4, 11.

Appellants argue that Endo's transmission method information is not a transaction type since this information pertains to the manner in which to transmit data and does not define the data's character as required by claim 1. Br. 6-7. Appellants additionally assert that Endo does not teach transforming data having various input formats to a number of different formats. *Id.* at Br. 7-9.

The issues before us, then, are as follows:

ISSUES

Under § 102, has the Examiner erred in rejecting claim 1 by finding that Endo discloses:

(1) receiving data having a transaction type that defines a character of the data and

(2) an application that is adapted to transform the data which is received in one of a plurality of formats into the transformed data which is one of a plurality of formats?

FINDINGS OF FACT (FF)

1. The Specification describes and shows a data transaction type. These types include invoice and order. Spec. 11:20-22, 12:5-9; Fig. 3.
2. Endo discloses a document transmission apparatus having an address book 301 containing a table shown in Figure 4 and a destination list generator 300 that generates a destination list shown in Figure 5 from the address book's contents. Document data in the document input unit 305 comes from scanner 210 or a hard disk 205, is converted at the format converter 308, and can be transmitted with document transmitter 309 using various protocols (e.g., facsimile transmission protocol, SMTP, salutation protocol). Endo, ¶¶ 0048-59; Figs. 3-5.
3. The destination list includes: (1) a destination address column 501; (2) a transmission method column 502; (3) a format for text column 503 ("FORMAT1"); (4) a format for monochrome documents column 504 ("FORMAT2"); and (5) a format for color documents column 505 ("FORMAT3"). Various transmission methods (e.g., email, fax, database, lpr) and data formats (e.g., TIFF-MMR, JPEG, BMP, PCL) are disclosed. For example, data may have a destination address of "abc@cde.fg.jl.lm," a transmission method of "e-mail" and FORMAT1-3 being TIFF-MMR, JPEG, and JPEG, respectively. Endo, ¶¶ 0057-58; Fig. 5.

PRINCIPLES OF LAW

During examination of a patent application, a claim is given its broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." *In re Am. Acad. of Sci. Tech*

Ctr., 367 F.3d 1359, 1364 (Fed. Cir. 2004) (internal citations and quotations omitted).

ANALYSIS

We begin by construing a key disputed limitation of claim 1 which calls for, in pertinent part, the data to have “a transaction type that defines a character of the data[.]” Appellants contend that Figure 3 of the present disclosure and its accompanying discussion of invoices and orders explain what a transaction type that defines a data’s character in claim 1 is. Br. 7. We agree that Specification provides examples of a transaction type. *See* FF 1. However, this discussion by no means provides an exclusive list for, or a definition of, a “transaction that defines a character of the data.” as recited in claim 1. A data’s character can thus include other data features or attributes. When giving this phrase its broadest reasonable construction, an ordinarily skilled artisan would have interpreted “a transaction type that defines the character of the data” to include any data attribute that defines the nature of the data. *See Am. Acad.*, 367 F.3d at 1364.

Endo discloses a document transmission apparatus having a destination list generated from the address book’s contents. FF 2. The destination list’s information includes a transmission method (e.g., email, fax, database, lpr) for the document data. FF 3. As transmission method indicates the nature of the data when sent, the information in the list includes a transaction type that defines the data’s character. Additionally, even before the data is transmitted, the data with its transmission method information (e.g., email) is sent to the format converter 308 and the document transmitter 309 so as to define the data’s character. *See* FF 2-3.

We therefore find that Endo's transmission method for a given destination address is data having a transaction type that defines the data's character as recited in claim 1.

Moreover, contrary to Appellants' assertions (Br. 7), Endo discloses the data's character is separate or distinct from its format. Endo discloses multiple columns related to the data. *See* FF 3. For example, data having destination address "abc@cde.fg.jl.lm" also has a transaction type "e-mail" and FORMAT1-3 (i.e., TIFF-MMR, JPEG, JPEG). *See id.* Endo therefore teaches the data's character is distinct and separate from the data's format. Furthermore, Endo demonstrates that the Endo's system includes one of many formats as evidenced by the multiple formats in the format columns (e.g., TIFF-MMR, JPEG, BMP, PCL) depending on the destination address. *See id.*

Appellants also argue that the data is not received in one of a plurality of formats as recited in claim 1. Br. 7. We disagree. Endo's Figure 3 shows that the document data's source can be a scanner 210 *or* a hard disk 205. FF 2. Appellants concede this point. Br. 7. Nonetheless, Appellants contend that this does not show the document data may be in different formats depending on the source and the "many [format] to many [format] conversion." Br. 7-9.

We agree with the Examiner (Ans. 12) that the claim does not require the data to be in a different format depending on the source, and we will not read this limitation into the claim. In fact, claim 1 recites that the data is "received in *one* format of a plurality of formats" (emphasis added). Thus, if the data is received in one format from the scanner 210, for example, this format is still one of many possible formats as required by claim 1.

Nonetheless, a scanner can scan in different formats (e.g., BMP, JPEG). Additionally, Endo shows different sources for the data, including a stand-alone hard disk 205 and scanner 210. We therefore find that Endo discloses the recitation that the data “is received in one of a plurality of formats” as recited in claim 1.

Finally, Figure 5 demonstrates that the data may be transformed into one of many formats (e.g., TIFF-MMR, JPEG, BMP, PCL). *See* FF 3.

Independent claims 10 and 16 are commensurate in scope to claim 1, and we are likewise unpersuaded by Appellants’ contentions.

For the foregoing reasons, Appellants have not shown error in the anticipation rejection of independent claim 1 based on Endo. We therefore sustain the rejection of claim 1, and claims 3, 10, 12, 16, and 18 which fall with claim 1.

THE OBVIOUSNESS REJECTION OVER ENDO AND OLEJAR

Regarding representative claim 4, the Examiner finds that Endo teaches all the limitations, except for detecting errors in the data based upon omissions in the data. Ans. 6-7. The Examiner relies on Olejar to cure the deficiencies. Appellants repeat the argument that Endo fails to teach the data has a transaction type that defines the data’s character. Br. 9-10. The issues are therefore the same as those in connection with claim 1, and we are not persuaded for the above reasons.

THE REMAINING OBVIOUSNESS REJECTIONS

The Examiner rejected: (1) claims 2, 11, and 17 under 35 U.S.C. § 103(a) as unpatentable over Endo and Deng; (2) claims 5, 14, and 20 under

35 U.S.C. § 103(a) as unpatentable over Endo and Lakshman; (3) claims 6, 15, and 21 under 35 U.S.C. § 103(a) as unpatentable over Endo and Harris, Jr.; (4) claim 8 under 35 U.S.C. § 103(a) as unpatentable over Endo, Olejar, and Lakshman; and (5) claim 9 under 35 U.S.C. § 103(a) as unpatentable over Endo, Olejar, Lakshman, and Harris, Jr. Ans. 7-10. For these rejections, Appellants incorporate the previous arguments and additionally contend that Deng, Lakshman, Harris, Jr., and Olejar do not cure the purported deficiencies. Br. 10-11.

We are not persuaded by Appellants' argument for the reasons disclosed above regarding Endo and claim 1 and need not address whether Deng, Lakshman, Harris, Jr., and Olejar cures any deficiency. This argument also fails to persuasively rebut the Examiner's obviousness conclusion – a position we find reasonable.

CONCLUSION

The Examiner did not err in rejecting claims 1-21 under § 103.

ORDER

The Examiner's decision rejecting claims 1-21 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

Appeal 2009-007248
Application 10/067,875

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